

APPEAL NO. 030718
FILED MAY 6, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 20, 2003. The hearing officer resolved the disputed issue by deciding that the appellant (claimant) sustained a compensable injury on _____, and that he had disability from _____, to January 9, 2003. The respondent (carrier) appealed the hearing officer's injury and disability determinations on sufficiency of the evidence grounds. The claimant responded, urging affirmance.

DECISION

Affirmed.

The claimant testified that he sustained a compensable injury on _____, when he was pulling on a pallet jack to unload material at a customer's site and heard his back pop. On October 31, 2002, the claimant sought medical treatment with Dr. H and he opined that the claimant had a thoracic sprain/strain. An MRI of the thoracic spine dated January 20, 2003, reflects disc protrusions at T5-6 and T7-8. Surveillance video dated January 8-9, 2003, shows the claimant working outside building a barbed wire fence.

Injury and disability are questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). The hearing officer resolved the conflicts and inconsistencies in the evidence in favor of the claimant and he was acting within his role as the fact finder in determining that the claimant sustained his burden on both issues. The Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we do not find them so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). Although another fact finder could have reached a different conclusion on the same evidence, that alone is not a basis on which to disturb the hearing officer's decision. Salazar, et al. v. Hill, 551 S.W.2d 518 (Tex. Civ. App.-Corpus Christi 1977, writ ref'd n.r.e.).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **PROTECTIVE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Veronica Lopez
Appeals Judge